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February 16, 2010

**VIA EMAIL and FEDERAL EXPRESS**

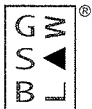
Mr. Craig Whitenack, Civil Investigator  
United States Environmental Protection Agency  
Region IX, Southern California Field Office  
600 Wilshire Avenue, Suite 1420  
Los Angeles, CA 90017

**Re: Response for Information Pursuant to Section 104(e) of CERCLA for the**  
Yosemite Creek Superfund Site  
San Francisco, California  
Liable Company Name: Univar USA Inc.  
Generator Name: Van Waters & Rogers, Inc. and Chemcentral

Dear Mr. Whitenack:

This letter responds to the October 15, 2009 request for information ("RFI") of the United States Environmental Protection Agency ("EPA") to Univar USA Inc. on behalf of its corporate predecessors Van Waters & Rogers, Inc., Chemcentral and Vopak Distribution Americas Corp. ("Univar") with regard to the Yosemite Creek Superfund site (the "Site"). Subject to both the general and specific objections noted below, and without waiving these or other available objections or privileges, Univar submits the following in response to the RFI and in accordance with the February 15, 2010 due date (which became February 16, 2010, as a result of the federal holiday) that EPA and Univar agreed to for this response.

In responding to the RFI, Univar has undertaken a diligent, good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. However, the RFI purports to seek a substantial amount of information that is relevant neither to the Site nor alleged contamination at the Site. For example, while we believe we understand the basis of EPA's conclusion that Univar had a connection to the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (the "BAD Site"), certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location within the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act



("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defines "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polyethylenechlorinated biphenyls ("PCBs")." However, certain RFI requests also seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA; thus Univar has limited its review of documents and information to the COCs at the Site identified by EPA.

As you know, the California Department of Toxic Substances Control ("DTSC") conducted an extensive investigation of the BAD Site and Univar in connection with it. DTSC's investigation included an information request to Univar,<sup>1</sup> responses to which are included in DTSC's files, among other documents. We understand that EPA already possesses DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Thus, the focus of Univar's identification, review and retrieval of documents has been to collect and provide information that is relevant to the Site that has not been previously provided to EPA, DTSC or any other governmental agency.

### GENERAL OBJECTIONS

Univar asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. Univar asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law. In the event that a privileged or protected document has been inadvertently included among the documents produced in response to the RFI, Univar requests that any such document be returned to Univar immediately and states here for the record that Univar is not thereby waiving any available privileges or protections that would apply to any such document.
2. In the event that a document containing CBI or trade secrets has been inadvertently included among the numerous documents provided in response to the RFI, Univar asks that any such documents be returned to Univar immediately so that Univar may resubmit the document in accordance with the applicable requirements for the submission of Confidential Information.
3. Univar objects to producing any documents or information already in the possession of any government agency, including but not limited to DTSC, and further objects to providing documents

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<sup>1</sup> Individual information requests were sent separately to Univar's corporate predecessors, Van Waters & Rogers and Chemcentral.



already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and Univar in connection with it. DTSC's investigation included an information request to Univar and the DTSC files include Univar's Response to that information request. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Notwithstanding this objection, and without waiving it, Univar may produce certain information or documents in its possession, custody, or control that it previously provided to or obtained from government agencies that contain information responsive to the RFI.

4. Univar objects to Instruction 4 to the extent it seeks to require Univar, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." Univar is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.

5. Univar objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on Univar to supplement these responses. Univar will, of course, comply with any lawful future requests that are within EPA's authority.

6. Univar objects to Instruction 6 in that it purports to require Univar to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of Univar. EPA lacks the authority to require Univar to seek information not in its possession, custody or control.

7. Univar objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in Univar's possession, custody, or control. Univar disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known by [Univar]] to exist" but not in Univar's possession, custody, or control.

8. Univar objects to the RFI's definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible because the term is given two distinct definitions; the first in Definition 4, and the second in Request No. 3.

9. Univar objects to the definitions of "identify" in Definition 7 to the extent that definition includes a requirement to provide home addresses of natural persons. Subject to this objection, current Univar employees and any other natural persons are identified by name and corporate address. Univar requests that if EPA wishes to contact current or former Univar employees identified in these responses, such contacts be initiated through Leslie R. Schenck.

10. Univar objects to the definition of "you," "Respondent," and "Univar" in Definition 14 because the terms are overbroad and it is not possible for Univar to answer questions on behalf of all the persons and entities identified therein. Notwithstanding this objection, and without waiving it, Univar has undertaken a diligent and good faith effort to locate and furnish documents and information in its possession, custody, and control that are responsive to the RFI.



11. Univar objects to EPA's requests that Univar provide EPA separately information that is contained in documents being furnished by Univar in response to the RFI. Where documents have been provided in connection with a response, information sought by EPA in the corresponding request for information that is set forth in those documents is not furnished separately. To do otherwise would be unduly burdensome.

This Response does not constitute, and should not be construed as, an admission of liability by Univar for any claims, demands, causes of action, releases, or alleged violations. Moreover, by responding to this Request, Univar does not waive any specific or General Objections, whether or not such objections are reiterated in the Response to a given Question.

### REQUESTS AND RESPONSES

1. Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.

#### **Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar can trace its history back to the mid-1920s. As such, identifying each of the products with which Univar and each of its corporate predecessors have ever been associated over the last 85 years, is unduly burdensome, neither possible nor relevant to site issues, and beyond the scope of EPA's authority. Moreover, Univar objects to Request No. 1 because it purports to seek information regarding *any* facility located in California and *any* facility located outside of California; thus, this request seeks information that is not relevant to the Site and is beyond the scope of EPA's authority.

Univar objects to this Question on the grounds that it assumes Univar "manufactured, formulated, or prepared" products. Univar also objects to the use of the terms "formulated" and "prepared" as they are vague and ambiguous.

Subject to and without waiving these objections or the General Objections, Univar provides EPA the following information related to Univar Facilities that shipped drums to the BAD Site.

#### **Response:**

Univar is a wholesale distributor of bulk and pre-packaged chemical products. Univar does not manufacture any chemical products.

2. Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:
  - a. ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.



- b. are/were located in California (excluding locations where ONLY clerical/office work was performed);
- c. are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).

### **Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* location in California, even to locations other than the BAD Site. These other facilities have no connection to the BAD Site, and thus this request seeks information that is not relevant to the Site and is beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar provides EPA the following information related to Univar Facilities that shipped drums to the BAD Site.

### **Response:**

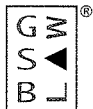
#### **2256<sup>2</sup> Junction Avenue, San Jose, California Response – ("Junction Avenue")**

In 1975, the Junction Avenue property (which was run by Univar's corporate predecessor Van Waters & Rogers) began to receive small quantities of virgin chemical products in drums delivered by commercial truck. Univar stored, blended, packaged and/or repackaged such virgin products into 55-gallon drums, totes or smaller packages to meet customer needs. Univar provided lists of products sold by Junction Avenue to DTSC in 1992, which are readily available to EPA.

*Drums Picked Up from Customers.* Univar delivered virgin products to customers by truck in drums and periodically picked up empty drums from customers. Junction Avenue incentivized its customers to return drums to Univar for reuse through a drum deposit program, thereby significantly reducing the number of drums that were reconditioned. Before picking up customer drums, Junction Avenue drivers inspected the drums to ensure they were "RCRA empty." Univar prohibited its drivers from picking up drums not meeting this requirement. Upon a driver's return to Junction Avenue, an on-site employee (e.g., a shipping clerk or warehouse worker) inspected the drums received from customers to ensure they did not contain remnant product. If the on-site Univar employee determined that a drum did not meet Univar's criteria, the drum was returned to the customer.

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<sup>2</sup> The correct street number for this facility is "2256." Historic correspondence with EPA and DTSC includes a typographical error that erroneously identified the street address as "2655."



Although the vast majority of Univar's customers purchased industrial chemical products, a small number of customers purchased virgin pesticides from Junction Avenue's Pesticides Control Division. Univar received limited quantities of bulk pesticides it repackaged pursuant to customer instructions. Univar did not blend these products. The Pesticides Control Division maintained its own trucks and drivers who were responsible for delivering to and picking up from customers any drums containing pesticides that the customer did not keep. The Pesticides Control Division picked up a maximum of 10 customer drums per month and returned all such drums to the pesticide suppliers via common carrier to point of origin; none of these drums were ever sent to a drum reconditioning facility such as BAD.

*On-Site Drum Washing.* From the mid-1970s until the early 1980s, Univar washed the majority of its polyethylene drums onsite (e.g., drums containing acids, caustics, alkalis, non-hazardous water soluble products and other products that could easily be rinsed and neutralized). Univar used a drum washing device that inverted the drum and placed the drum opening directly over a nozzle that forced a strong stream of high-pressure water into the drum. Drums used for products such as mineral spirits that were part of Univar's drum deposit program were neither washed nor reconditioned upon their return to Junction Avenue, but were immediately refilled with the same product and delivered to customers.

*Drums Sent Offsite to Drum Reconditioners.* To the best of Univar's knowledge, Junction Avenue only sent 55-gallon drums to the BAD Site, the majority of which were steel. Polyethylene drums sent offsite typically contained thick viscous products such as soaps, surfactants or other products that could not be readily washed onsite (i.e., they created too many bubbles during washing/rinsing). Univar has no information indicating it entered into any written contracts or agreements with drum reconditioners at the BAD Site. As discussed in the 1992 response, invoices in EPA's possession indicate Junction Avenue sent drums to the BAD Site only intermittently over a limited period of time. Former employees indicate that Bay Area Drum Co. drove its own trailer trucks to Junction Avenue, stacked Univar's empty drums on the trailer, and drove the empty drums to the BAD Site. Bay Area Drum Co. later left an empty trailer that Univar filled over time; Bay Area Drum Co. then delivered the trailer to the BAD Site. Univar ceased sending drums to the BAD site in the mid-1980s.

It appears that at least 200 full drums of product were erroneously included in Univar's 1992 drum count of empty drums sent to the BAD Site by Junction Avenue for reconditioning. Historic documents in EPA's possession reveal that the 200 drums were full of virgin product – caustic soda, hydrochloric acid and sodium gluconate – sold by Univar to two reconditioners which operated at the BAD Site for use in their drum reconditioning operations.

#### **850 South River Road, West Sacramento, California Response – (“River Road”)**

River Road (formerly run by Univar's corporate predecessor Van Waters & Rogers) opened in 1975 as a small, 15,000-sq-ft. satellite business and closed in the mid-1990s. Univar has only limited information regarding the River Road property, which received a limited number of prepackaged virgin chemical products that it distributed to commercial vendors. Univar did not blend any products at the property. River Road picked up a limited number of empty drums from customers that Univar sent offsite to drum reconditioners. The property, which is currently owned by the City of West Sacramento, has since been converted into a baseball park.

**3745 Bayshore Blvd., Brisbane, California Response – (“Brisbane”)**

Brisbane (formerly run by Univar’s corporate predecessor Van Waters & Rogers) opened in the 1960s and closed in November 1975. After a diligent search, Univar did not find any documents pertaining to Brisbane and has limited information about the property. According to a former Univar employee, Brisbane stored, blended, packaged and/or repackaged virgin chemical products pursuant to customer instructions, and conducted onsite drum washing similar to the drum washing operations performed at Junction Avenue. To the best of Univar’s knowledge, Brisbane may have sent a limited number of drums to the BAD Site from 1972 intermittently until November 1975 when Univar closed this facility.

**31702 Hayman Street, Hayward, California Response – (“Hayward”)**

Hayward (formerly run by Univar’s corporate predecessor Chemcentral) received virgin chemical products, primarily in bulk, by rail car and truck. Univar stored, blended, packaged and/or repackaged such virgin products to meet customer needs. Univar provided lists of products sold by Hayward to DTSC in 1992, which are readily available to EPA. Hayward did not sell pesticides, as is evident from the product lists in EPA’s possession. The Hayward property closed in spring 2009.

*Drums Picked up from Customers.* Hayward followed the same procedures described for Junction Avenue (please see the portion of this response pertaining to Junction Avenue).

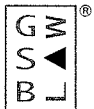
*On-Site Drum Washing.* Like Junction Avenue, Univar washed the majority of its drums on-site at the Hayward property, and did so in the same manner. Similarly, drums used for products such as mineral spirits that were part of Univar’s drum deposit program were neither washed nor reconditioned upon their return to Hayward, but were immediately refilled with the same product and delivered to customers.

*Drums Sent Offsite to Drum Reconditioners.* After a diligent search, Univar did not find any documents pertaining to the BAD Site. Records available to EPA indicate the Hayward property used the BAD Site for a limited timeframe from 1980-82. Univar has no information indicating it entered into any written contracts or agreements with drum reconditioners at the BAD Site.

3. Provide a brief description of the nature of Respondent’s operations at each Facility identified in your response to Question 2 (the “Facilities”) including;
  - a. the date such operations commenced and concluded; and
  - b. the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, Univar objects to the request in (b.) that it



describe “types of work performed at each location over time . . . .” Without EPA identifying the types of work to which it is referring, it would be virtually impossible, given the broad nature of possible work at various facilities, to describe each and every type of work that was performed at any facility. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request seeks information that is not relevant to the Site and is beyond the scope of EPA’s authority.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

See the Responses to Requests No. 1 and 2.

4. For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest (“SOI”) during the Relevant Time Period that still exist and the periods of time covered by each type of record.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require Univar to describe “types of records.” Where documents have been provided in response to this RFI, each and every document regarding SOIs is not “identified” by describing its contents.

Univar further objects to Request No. 4 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site; thus, it is not relevant to the Site and beyond the scope of EPA’s authority. Therefore, Univar has limited its review of documents and information to the COCs identified by EPA.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC’s RFI, which are readily available to EPA. After a diligent search of historic records in response to EPA’s Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 4. Univar is unable to provide any additional information to EPA.

5. Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.

**Objections:**



In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COCs at Univar Facilities and the BAD Site, Request No. 5 purports to seek information relating to Univar Facilities that is not relevant to contamination at the Site and is beyond the scope of EPA's authority.

Univar also objects to the use of the terms "produce" and "use" because they are vague and ambiguous. For purposes of this question, Univar assumes that "produce" is similar in meaning to "manufacture" and Univar does not manufacture chemicals. For purposes of this question "use" means materials Univar actually consumes in its operations.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

To the best of its knowledge, Univar does not have in its possession, custody or control any chemical analyses of the virgin chemical products it purchased, produced, used or stored at its Facilities. EPA already possesses all relevant and available information pertaining to this Question in the form of price lists, invoices, receipt tickets and other documents. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

6. If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.

**Response:**

See the Objections and Response to Request No. 5.

7. If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased used, or stored at each Facility.

**Response:**

See the Objections and Response to Request No. 5.

8. If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used or stored at each Facility.

**Response:**

See the Objections and Response to Request No. 5.

9. If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.

**Response:**

See the Objections and Response to Request No. 5.

10. Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic fuel or transformer oil at Univar Facilities and the BAD Site, Request No. 10 purports to seek information relating to Univar Facilities that is not relevant to contamination at the Site and is beyond the scope of EPA's authority.

Univar also objects to the use of the terms "produce" and "use" because they are vague and ambiguous. For purposes of this question, Univar assumes that "produce" is similar in meaning to "manufacture" and Univar does not manufacture chemicals. For purposes of this question "use" means materials Univar actually consumes in its operations.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

To the best of its knowledge, Univar does not have in its possession, custody or control any chemical analyses of the virgin chemical products it purchased, produced, used or stored at its Facilities. EPA already possesses all relevant and available information pertaining to this Question in the form of price lists, invoices, receipt tickets and other documents. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

11. If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.

**Response:**

See the Objections and Response to Request No. 10.

12. If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.

**Response:**

See the Objections and Response to Request No. 10.

13. If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each facility.

**Response:**

See the Objections and Response to Request No. 10.

14. If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.

**Response:**

See the Objections and Response to Request No. 10.

15. Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:
- Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;
  - Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;
  - State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;
  - Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 15 purports to seek information relating to Univar Facilities that is not relevant to contamination at the Site and is beyond the scope of EPA's authority.

Univar further objects to Request No. 15 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or



threatened release to the environment at the Site; thus, it is not relevant to the Site and beyond the scope of EPA's authority. Univar has, consequently, limited its review of documents and information to the COCs identified by EPA.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 15. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

16. For each SOI delivered to the facilities in closed containers, describe the containers, including but not limited to:
- a. the type of container (e.g. 55 gal. drum, tote, etc.);
  - b. whether the containers were new or used; and
  - c. if the containers were used, a description of the prior use of the container.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to Univar Facilities that is not relevant to contamination at the Site and is beyond the scope of EPA's authority.

Univar further objects to Request No. 16 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site; thus, it is not relevant to the Site and beyond the scope of EPA's authority. Therefore, Univar has limited its review of documents and information to the COCs identified by EPA.

Subject to and without waiving these objections or the General Objections, Univar states as follows.

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any additional



documents pertaining to Request No. 16. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

17. For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar further objects to Request No. 17 as it assumes that each SHC is somehow individually identified, tracked, used and reused by the same entity throughout the life of the SHC. There is no evidence that the BAD Site operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 17 purports to seek information that does not exist.

Univar further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site, is not relevant to the Site and is beyond the scope of EPA's authority; thus Univar has limited its review of documents and information to the COCs identified by EPA.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to Sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request seeks information that is not relevant to the Site and is beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 17. For the reasons set forth in the Objections to Request No. 17, Univar is unable to provide any additional information to EPA.

18. For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identify all parties



to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request seeks information that is not relevant to the Site and beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 18. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

19. For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar further objects to Request No. 19 as it assumes that each SHC is somehow individually identified, tracked, used and reused by the same entity throughout the life of the SHC. There is no evidence that the BAD Site operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 19 purports to seek information that does not exist.

In addition, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 19 purports to seek information regarding SHCs that were sent to sites other than the BAD Site, and therefore is beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 19. For the reasons set forth in the Objections to Request No. 19, Univar is unable to provide any additional information to EPA.

20. Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar can trace its history back to the mid-1920s. As such, identifying each such individual employed by Univar and its corporate predecessors over the last 85 years, is unduly burdensome, neither possible nor relevant to Site issues, and beyond the scope of EPA's authority.

Furthermore, to the extent that Request No. 20 seeks information about individuals responsible for procurement of "Materials" during the time period since 1988, this request is not relevant to the Site and is beyond the scope of EPA's authority. Univar further objects to Request No. 20 as it purports to seek information regarding procurement of "Materials" at facilities other than the BAD Site and thus goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment; thus this request is not relevant to the Site and is beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 20 for the Relevant Time Period. For the reasons set forth in the Objections to Request No. 20, Univar is unable to provide any additional information to EPA.

21. Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:



- a. the type of container in which each type of waste was placed/stored;
- b. how frequently each type of waste was removed from the Facility;

Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 21 purports to seek information relating to Univar Facilities that is not relevant to contamination at the Site and is beyond the scope of EPA's authority.

In addition, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." The RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Univar objects to Request No. 21 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site; thus, it is not relevant to the Site and is beyond the scope of EPA's authority. Therefore, Univar has limited its review of documents and information to the COCs identified by EPA.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 21. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

22. Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:
  - a. the type of container (e.g. 55 gal. drum, dumpster, etc.);
  - b. the colors of the containers;
  - c. any distinctive stripes or other markings on those containers;
  - d. any labels or writing on those containers (including the content of those labels);
  - e. whether those containers were new or used; and



- f. if those containers were used, a description of the prior use of the container;

Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar further objects to Request No. 22 as it assumes that each SHC is somehow individually identified, tracked, used and reused by the same entity throughout the life of the SHC. There is no evidence that the BAD Site operated in this way or that it tracked SHCs for its customers such that this information is available. Generally, SHCs, such as drums sent to drum reconditioners by a customer, are fungible commodities and are not individually tagged or tracked to ensure their return to that particular customer. Accordingly, Request No. 22 purports to seek information that does not exist.

In addition, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." The RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Univar objects to Request No. 22 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site; thus, it is not relevant to the Site and is beyond the scope of EPA's authority. Therefore, Univar has limited its review of documents and information to the COCs identified by EPA.

Additionally, Univar objects to Request No. 22 because it purports to seek information regarding containers used to remove each type of waste containing any SOIs from the Facilities and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request seeks information that is not relevant to the Site and is beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 22. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

23. For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. State the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish



between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." The RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Univar objects to Request No. 23 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site; thus, it is not relevant to the Site and is beyond the scope of EPA's authority. Therefore, Univar has limited its review of documents and information to the COCs identified by EPA.

Additionally, Univar objects to Request No. 23 as it purports to seek information regarding waste generated at any Facilities that contained any SOIs and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request seeks information that is not relevant to the Site and is beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 23. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

24. Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar can trace its history to the mid-1920s. As such, identifying all individuals who currently have and have had responsibility for environmental matters for Univar and its corporate predecessors at all Univar Facilities, including those that have no nexus to the BAD Site, as well as their job titles, duties, dates



performing those duties, dates of resignation and other information over the past 85 years, is unduly burdensome, neither possible nor relevant to Site issues, and beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 24 for the Relevant Time Period. For the reasons set forth in the Objections to Request No. 24, Univar is unable to provide any additional information to EPA.

25. Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar can trace its history back to the mid-1920s. As such, identifying all drum recyclers or drum reconditioners from which Univar and all of its corporate predecessors have ever acquired such drums or containers over the last 85 years, is unduly burdensome, neither possible nor relevant to Site issues, and beyond the scope of EPA's authority.

Subject to and without waiving these objections or the General Objections, Univar provides EPA the following information related to Univar Facilities that shipped drums to the BAD Site.

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 25. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

26. Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI,



"EPA is seeking to identify parties that have or may have contributed to contamination at the Site." The RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. Univar objects to Request No. 26 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site; thus, it is not relevant to the Site and is beyond the scope of EPA's authority. Therefore, Univar has limited its review of documents and information to the COCs identified by EPA.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 26. See the Response to Request No. 2. Univar is unable to provide any additional information to EPA.

27. Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work. Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups with no temporal or geographic limitations. Univar can trace its history back to the mid-1920s. As such, identifying all removal and remedial actions with which Univar and its corporate predecessors has ever been involved is neither possible nor relevant to this request. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request seeks information that is not relevant to the Site and is beyond the scope of EPA's authority. Univar further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

For the reasons set forth above in the Objections, Univar is unable to provide any additional information to EPA.

28. Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DTSC conducted an extensive investigation of the BAD Site and Univar's operations in connection with it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. Univar understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC's RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA's Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 28. Univar is unable to provide any additional information to EPA.

29. Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, Univar has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, Univar understands that EPA is already in possession of DTSC's files regarding the BAD Site. Univar additionally objects on the grounds that this question is nonsensical in that it assumes that Univar



“produced, purchased, used or stored” SOIs, further assumes that Univar currently has knowledge of those “SOIs that were produced, purchased, used or stored,” and additionally, currently knows that it either never created documents regarding those SOIs or knows that there were in fact documents in the past that now no longer exist – an impossibility on all counts.

Subject to and without waiving these objections or the General Objections, Univar states as follows:

**Response:**

Univar submitted all relevant documents pertaining to the BAD Site in conjunction with its 1992 response to DTSC’s RFI, all of which are readily available to EPA. After a diligent search of historic records in response to EPA’s Section 104(e) information request, Univar was unable to find any other documents pertaining to Request No. 29. Univar is unable to provide any additional information to EPA.

30. Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.

**Objections:**

In addition to the General Objections set forth above, Univar objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Univar also objects to Request No. 30 because it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site; thus, it is not relevant to the Site and is beyond the scope of EPA’s authority. Therefore, Univar has limited its review of documents and information to the COCs identified by EPA.

Univar further objects to Request No. 30 because it seeks copies of documents containing information responsive to the previous 29 questions. DTSC conducted an extensive investigation of the BAD Site and Univar’s operations in connection with it. DTSC’s investigation included an information request to Van Waters & Rogers and Chemcentral, both of which fully responded in writing to the DTSC. DTSC files include Univar’s Response to DTSC’s information request, as well as extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. We understand that EPA is already in possession of DTSC’s files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

Subject to and without waiving these objections or the General Objections, states as follows:

**Response:**

After a diligent search of historic records in response to EPA’s Section 104(e) information request, Univar was unable to find any other documents pertaining to Request Nos. 1-29. Univar is unable to provide any additional information to EPA.



G A R V E Y S C H U B E R T B A R E R

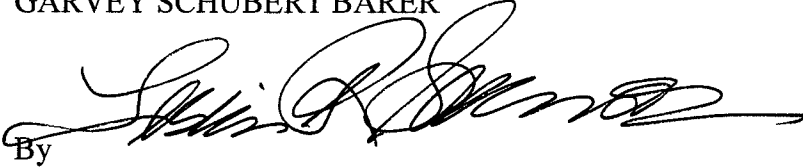
February 16, 2010

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Any questions EPA may have regarding the responses to these information requests may be directed to me at (206) 816-1487 or [lschenck@gsblaw.com](mailto:lschenck@gsblaw.com), or to my associate Michelle Rosenthal at (206) 816-1525 or [mrosenthal@gsblaw.com](mailto:mrosenthal@gsblaw.com).

Very truly yours,

GARVEY SCHUBERT BARER

By 

Leslie R. Schenck

LRS:km

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